

ORIGINAL

Criminal Division
Dept. of Court Records
Allegheny County, PA.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

CRIMINAL DIVISION

VS.

CC 201202821

MATTHEW EBO

COMMONWEALTH'S PROPOSED
POINTS FOR CHARGE

Code: _____

Filed on Behalf of the
Commonwealth of Pennsylvania

Counsel of Record for the
Commonwealth of Pennsylvania

STEPHEN A. ZAPPALA, JR.
DISTRICT ATTORNEY

By

STEVEN M. STADTMILLER
Deputy District Attorney
Pa. I.D. No. 53332

Office of the District Attorney
of Allegheny County
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Pittsburgh, PA 15219

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DEPT OF COURT RECORDS
CRIMINAL DIVISION
ALLEGHENY COUNTY PA

COMMONWEALTH'S PROPOSED POINTS FOR CHARGE

TO THE HONORABLE, THE JUDGES OF SAID COURT:

AND NOW, comes the Commonwealth of Pennsylvania by and through its attorneys, STEPHEN A. ZAPPALA, JR., District Attorney of Allegheny County, and STEVEN M. STADTMILLER, Deputy District Attorney, and respectfully proposes the following points for charge taken from the Pennsylvania Suggested Standard Criminal Jury Instructions and from the cited legal authority:

(a) Instruction 3.08	granted/denied
(b) Instruction 3.09	granted/denied
(c) Instruction 3.10A	granted/denied
(d) Instruction 3.13	granted/denied
(e) Instruction 3.14	granted/denied
(f) Instruction 3.15	granted/denied
(g) Instruction 3.17	granted/denied
(h) Instruction 3.18	granted/denied
(I) Instruction 4.07A	granted/denied
(j) Instruction 4.10A	granted/denied
(k) Instruction 4.17	granted/denied
(l) Instruction 8.306(a)(1)	granted/denied
(m) Instruction 8.306(b)	granted/denied

(n) Instruction 8.306(b)(1)	granted/denied
(o) Instruction 12.903A	granted/denied
(p) Instruction 15.2501A	granted/denied
(q) Instruction 15.2501B	granted/denied
(r) Instruction 15.2502A	granted/denied
(s) Instruction 15.2502B	granted/denied
(t) Instruction 15.2502C	granted/denied
(u) Instruction 15.3701A	granted/denied
(v) Instruction 15.3702	granted/denied
(w) Instruction 15.6104	granted/denied
(x) Instruction 15.6106	granted/denied
(y) Special Instruction # 1	granted/denied

The evidence introduced in this trial indicates that some of the eyewitnesses to the killing of _____ have not been produced by either party. The jury should not draw any inference adverse to either party as a result of the parties' failure to produce those eyewitnesses at this trial.

(z) Special Instruction # 2 granted/denied

If you were to find that Matthew Ebo and/or Thaddeus Crumbley went looking for victim, Todd Mattox with a criminal intent, expecting that such confrontation may necessitate the victim to use his gun, neither defendant can now claim self defense as to the charge of Second Degree Murder.

To analogize to a classical case, if a man goes into a

marketplace in order to hold up the proprietor at gunpoint, such a man is committing a felony at that time. He knows that the danger of having to defend himself exists. Under those circumstances, he has no right to claim self defense because he set the moving factors into being, creating the dangerous situation.

Commonwealth v. Franklin, 265 A.2d 361 (Pa. 1970).

(z) Special Instruction # 2 granted/denied

As to each defendant, you have the right to bring in a verdict and find the defendant not guilty, or find him guilty of one of three types of homicide. So you will begin with the first charge of criminal homicide, murder in the first degree, and make a finding as to whether the Defendant is guilty or not guilty of that charge. If you find him guilty, then you need go no further, and need not consider murder of the second degree or murder of the third degree. However, if you find the Defendant is not guilty of first degree murder, then you would go on to consider murder of the second degree. If you find him guilty of murder of the second degree, then you need go no further, and need not consider murder of the third degree. However, if you find that the defendant is not guilty of first or second degree murder, then you would go on to consider murder of the third degree.

Respectfully submitted,

STEPHEN A. ZAPPALA, JR.
DISTRICT ATTORNEY

By:



STEVEN M. STADTMILLER
DEPUTY DISTRICT ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that on this 1 day of June,
2012, I have caused to be mailed a true and correct copy of the
within request to:

Randall McKinney, Esquire
429 Forbes Avenue, Suite 1400
Pittsburgh, PA 15219

The Honorable Beth A. Lazzara
Fifth Floor
Allegheny County Courthouse
Pittsburgh, PA 15219

Helen M. Lynch, Esquire
Court Administrator
Room 535 Courthouse
Pittsburgh, PA 15219



Steven M. Stadtmaier
Deputy District Attorney